

Notice of Allowability	Application No.	Applicant(s)	
	10/608,147	DESPRES ET AL.	
	Examiner	Art Unit	
	Robert A. Wax	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the election filed December 28, 2005.
2. ☒ The allowed claim(s) is/are 1-5, 20 and 30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/311,213.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
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| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>03202006</u> 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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DETAILED ACTION

1. Claims 1-5 are directed to allowable products. Pursuant to the procedures set forth in MPEP § 821.04(B), claim 20, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims directed to a method of use of the allowable products previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on December 1, 2005 is hereby withdrawn with respect to Groups I and IV. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

2. The IDS filed September 30, 2003, citing related patent applications, has been considered but no PTO-1449 was filed. If applicants wish to resubmit on a PTO-1449 such will be initialed by the examiner.

Drawings

3. The drawings were received on April 9, 2004. These drawings are accepted by the examiner.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Charles J. Andres on March 17, 2006.

The application has been amended as follows:

In the specification:

On page 1, after the title, insert the following paragraph:

- - -This application is a continuation-in-part of copending application Serial No. 10/311,213, filed December 16, 2002, with requirements for 35 USC 371 completed May 19, 2003, which is an application filed under 35 USC 371 of PCT/IB01/01570, filed June 18, 2001 which claims benefit of provisional application Serial No. 60/212,129, filed June 16, 2000.- - -;

On page 16, line 22, delete, "Figure 2" and substitute therefor- - -Figures 2A-C- - -;

On page 17, line 3, delete, "Figure 3" and substitute therefor- - -Figures 2A-B- - -;

On page 17, line 16, delete, "Figure 4" and substitute therefor- - -Figures 4A-B- - -;

On page 17, line 29, delete, "Figure 5" and substitute therefor- - -Figures 5A-C- - -;

On page 18, line 13, delete, "Figure 6" and substitute therefor- - -Figures 6A-B- - -;

On page 19, line 11, delete, "Figure 9" and substitute therefor- - -Figures 9A-C- - -;

On page 19, line 27, delete, "Figure 11" and substitute therefor- - -Figures 11A-D- - -;

On page 20, line 6, delete, "Figure 12" and substitute therefor- - -Figures 12A-D- - -.

In the claims:

Cancel nonelected claims 6-19 and 22-29.

In claim 1, lines 5, 7, 9, 12, 14, 16 and 18, delete, "selected in the group" and substitute therefor - - -selected from the group- - -;

In claims 3, line 10 and claim 4, line 2, after, "IETWILRHP" insert - - -(SEQ ID No.: 29)- - -;

In claim 5, delete, "such as a carrier protein";

Add new claim 30:

30. (New) The isolated polypeptide according to claim 5 wherein the protein with which the polypeptide is associated is a carrier protein.

5. The following is an examiner's statement of reasons for allowance: The prior art neither teaches nor suggests the claimed peptides, thus, they are novel and unobvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Wax whose telephone number is (571) 272-0623. The examiner can normally be reached on Monday through Friday, between 9:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Robert A. Wax', is positioned above the printed name and title.

Robert A. Wax
Primary Examiner
Art Unit 1653

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